



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Final Results and Final Rescission, In Part, of the 25th Antidumping Duty Administrative Review; 2018-2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) published the preliminary results of the 25th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (China) on March 25, 2021. Commerce determines that mandatory respondent, Shijiazhuang Goodman Trading Co., Ltd. (Goodman) failed to establish its eligibility for a separate rate and is part of the China-wide entity. We also find that the review request made by The Roots Farm Inc. (Roots Farm) was not valid and, accordingly, we have rescinded the review with respect to the other mandatory respondent, Zhengzhou Harmoni Spice Co., Ltd. (Harmoni).

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

FOR FURTHER INFORMATION CONTACT: Leo Ayala, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3945.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 2021, Commerce published the preliminary results of the 25th administrative review of fresh garlic from China.¹ We preliminarily found that the mandatory respondent Goodman was part of the China-wide entity. We rescinded the review with respect to five companies for which their sole requests for review had been timely withdrawn.² Furthermore, we preliminarily determined that the review request submitted by Roots Farm was invalid and preliminarily rescinded the review with respect to Harmoni. Additionally, we found that two companies, Shandong Happy Foods Co., Ltd. and Jining Alpha Food Co., Ltd., qualified for separate rate status.

On April 26, 2021, the Fresh Garlic Producers Association (FGPA) and its individual members³ submitted comments on the *Preliminary Results*.⁴ No other party submitted comments. The deadline for the final results is July 23, 2021.

Scope of the Order

The products subject to the order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay. The scope of the order does not include the following: (a) garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then

¹ See *Fresh Garlic from the People's Republic of China: Preliminary Results, Preliminary Rescission, and Final Rescission, In Part, of the 25th Antidumping Duty Administrative Review; 2018–2019*, 86 FR 15903 (March 25, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² The companies are: (1) China Jiangsu International Economic Technical Cooperation Corporation; (2) Hebei Holy Flame International; (3) Jinxiang Qingtian Garlic Industries; (4) Qingdao Ritai Food Co., Ltd.; and (5) Yingxin (Wuqiang) International Trade.

³ The individual members of the FGPA are: Christopher Ranch L.L.C.; The Garlic Company; and Valley Garlic.

⁴ See FGPA's Letter, "25th Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China – Petitioners' Letter in Lieu of Case Brief," dated April 26, 2021.

harvested and otherwise prepared for use as seed. The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings: 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700, of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive. In order to be excluded from the order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to U.S. Customs and Border Protection (CBP) to that effect.

Partial Rescission of Administrative Review

Commerce has determined that the review request from Roots Farm was invalid *ab initio*, and is rescinding the administrative review with respect to mandatory respondent, Harmoni.

Analysis of Comments Received

The FGPA was the only party to file comments on the *Preliminary Results*. The FGPA noted that the preliminary rate applied to Shandong Happy Foods Co., Ltd and Jining Alpha Food Co., Ltd should be \$4.37 per kilogram (kg) rather than the rate of \$4.34 per kg stated in the *Preliminary Results*. Commerce stated in the *Preliminary Results* that the margin assigned to the separate rate recipients would be the “rate for the separate rate companies in the previous administrative review of this order.”⁵ The separate rate in the previous administrative review was \$4.37 per kg.⁶ Therefore, we have made the change proposed by FGPA for these final results. *See* Final Results of Administrative Review section.

⁵ See *Preliminary Results* PDM at 9.

⁶ See *Fresh Garlic from the People’s Republic of China: Final Results and Partial Rescission, of the 24th Antidumping Duty Administrative Review; 2017-2018*, 85 FR 71049, 71050-51 (November 6, 2020) (*Garlic from China 2017-2018*).

Determination of Separate Rates for Non-Selected Companies

In the *Preliminary Results*, in accordance with section 777A(c)(2)(B) of Tariff Act of 1930, as amended (the Act), Commerce employed a limited examination methodology, as we determined that it would not be practicable to examine individually all companies for which a review request was made.⁷ There were two exporters of subject merchandise from China that have demonstrated their eligibility for a separate rate but were not selected for individual examination in this review. These two exporters are listed in the Final Results of Administrative Review section of this notice.

Neither the Act nor Commerce's regulations address the establishment of the rate applied to individual companies not selected for examination where Commerce limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Commerce's practice in cases involving limited selection based on exporters accounting for the largest volume of imports has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs Commerce to use rates established for individually investigated producers and exporters, excluding any rates that are zero, *de minimis*, or based entirely on facts available in investigations.

In this administrative review, Goodman, the only individually reviewed respondent, did not receive a weighted-average dumping margin. Therefore, for these final results, Commerce has determined to assign the separate-rate from the prior review,⁸ which was Goodman's calculated rate, to the non-selected separate-rate companies.

Final Results of Administrative Review

Commerce determines that the following weighted-average dumping margins exist for the administrative review covering the period November 1, 2018, through October 31, 2019:

⁷ See Memorandum, "2018-19 Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China: Selection of Respondents for Individual Examination," dated February 20, 2020.

⁸ See *Garlic from China 2017-2018*.

Exporter	Weighted-Average Margin (dollars per kg)
Shandong Happy Foods Co., Ltd.	4.37
Jining Alpha Food Co., Ltd.	4.37
China-Wide Rate ⁹	4.71

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), Commerce has determined, and CBP shall assess antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to direct CBP to assess rates based on the per-unit (*i.e.*, per kg) amount on each entry of the subject merchandise during the POR. Commerce also intends to issue assessment instructions no earlier than 35 days after the publication date of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Pursuant to Commerce's assessment practice in non-market economy cases, for merchandise entered under Goodman's case number (*i.e.*, at its individually-examined exporter's cash deposit rate), Commerce intends to instruct CBP to liquidate such entries at the China-wide rate.¹⁰

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the *Federal Register*, as provided by sections 751(a)(2) of the Act: (1) for the companies listed above, the cash deposit rate will be the rate established in these final results of

⁹ The companies that are part of the China-wide entity in this review include Shijiazhuang Goodman Trading Co., Ltd.; Qingdao Maycarrier Import & Export Co., Ltd.; and Weifang Hongqiao International Logistics Co., Ltd.

¹⁰ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

review; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 4.71 U.S. dollars per kg; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: July 13, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

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